IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 3507 OF 2005
IN
APPEAL NO. 941 OF 2005
IN
NOTICE OF MOTION NO. 2801 OF 2004
IN
SUIT NO. 2648 OF 1995

1. Shri Alok Ajit Pal & Anr.] .. Appellants (Ori.Resp.1 & 2)

Versus

Suparna Tapan Das.] .. Respondent (Ori.Respondent)

Mr. Anand Grover with Ms. Susan Abraham i/b Mr. Prakash Mahadik for the applicant.

Mr. Pankaj Karli i/b Mrs. U.M. Jhaveri for the respondent.

CORAM: R.M. LODHA &
ANOOP V. MOHTA, JJ.

DATED: 31ST JANUARY, 2006

P.C. :

. Heard the learned counsel for the parties.

2. Both the parties are aggrieved by the order dated 8th September, 2005 and their appeals have been admitted. The matter comes up today on the Notice of Motion taken out by the appellants in Appeal No.941 of 2005 seeking stay of the order dated 8th September,

2005.

3. As regards the residential flat, though the prayer has been made in the Notice of Motion, the learned counsel for the appellants did not press that prayer. The prayer that has been pressed by the learned counsel for the appellants-applicants is that the respondent - Suparna Tapan Das who has been appointed as an agent of the Court Receiver in relation to the shop premises must not be permitted to participate in the bid for grant of agency.

4. In our considered view, neither the appellants nor the respondent deserves to be permitted to submit their bid. The appellants cannot be permitted to submit their bid in the light of their past conduct when they were appointed as the agent of the Court Receiver and the respondent Suparna Tapan Das cannot be continued as an agent of the Court Receiver in relation to the shop premises as, admittedly, she is teacher. her intention appears to be to give the agency to third party which cannot be countenanced. In our considered view, the interest of justice shall be subserved if the parties other than the parties in the appeal are asked to submit their bid for grant of agency.

5. Hence the Order:

O R D E R :

(i) The Court Receiver shall take steps to invite bids for grant of agency in relation to the shop premises forthwith and the entire exercise in this regard shall be completed as early as possible and, in no case, later than eight weeks from today.

(ii) Neither the appellants nor the respondent shall be entitled to submit their bid.

(iii) The Court Receiver shall award the Agency to the highest bidder and after deducting the requisite expenses permit the plaintiff and defendant No.1 to withdraw 50% of the amount of the income from the property.

6. Notice of Motion stands disposed of on the above terms.

Sd/-
[R.M. LODHA, J.]

Sd/-
[ANOOP V. MOHTA, J.]